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UNITED STATES PATENT AND TRADEMARK OFFICE

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3692	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No.	Applicant(s)
	09/895,944	BERGMAN ET AL.
	Examiner	Art Unit	
	Elda Milef	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _10 October 2007_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-45_ is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-45_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35

U.S.C. 112:

> The specification shall contain a written description of the invention, and
> of the manner and process of making and using it, in such full, clear,
> concise, and exact terms as to enable any person skilled in the art to
> which it pertains, or with which it is most nearly connected, to make and
> use the same and shall set forth the best mode contemplated by the inventor
> of carrying out his invention.

1.   Claims 1-45 are rejected under 35 U.S.C. 112, first

paragraph, as failing to comply with the written description

requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventor(s),

at the time the application was filed, had possession of the

claimed invention.

Regarding claim 1, 20, 33, the Examiner is not convinced

that the applicant had possession of the invention as claimed at

the time of the filing of this application. The applicant cites

that support for the claims is found on page page 23, lines 4-12

of the specification.   The sections of the specification

disclose a substitution process; methods developed to learn

Bayesian networks from data, a request for locations,

evaluations of a risk model, inference models, social utility.

There is no mention of how a request comprises non-textual

information and analyzing the request and the non-textual

information to create additional information within the context

of enabling an electronic information marketplace as claimed by

the applicant.

Claims 2-19, 21-32, 34-45 are rejected because of their

dependency to the rejected claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which

forms the basis for all obviousness rejections set forth in this

Office action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the
> art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

2. Claims 1-5, 10, 14-15, 18-22, 26, 30-35, 39, 43-45 are

rejected under 35 U.S.C. 103(a) as being unpatentable over

Miller et al. (US PG. Pub. No. 2002/0026369) in view of

Goldberg et al. (US Patent No. 6,985,885).

Re claims 1-5,14: Miller disclose:

collecting a request from a buyer for a requested good

wherein said request comprises non-textual information("Thus, a

purchase database may allow a portal page to incorporate a tool

to identify or organize items a user wishes to purchase or has

purchased form one or more vendors. System 100 may collect the

information needed to conduct a purchase (e.g., item identifier,

quantity price, method of payment) and submit them to a vendor

for a user….one method of receiving a bar code representation

from a user and providing him or her with a portal page

including information relevant to an item associated with the

bar code…the bar code scanner may take virtually any form and

may communicate with the user's computer system through a wired

or unwired(e.g., RF Radio Frequency)) connection and may form an

integral part of the computer…")-see [75-76]; also, Figs. 1, 5A-

1 through 5B-2, and [132-140] disclose examples of portal pages

through which requests to purchase items are indicated by the

user, and the transmission of a representation of data selected

by the user to a vendor or web site (non-textual data). Miller

further disclose receiving a representation of a bar code from

the user(request is non-textual information). Also, see Figs

6, 12 and related text;

     analyzing the request comprising non-textual information to

create additional information from the request ("receiving a

request for information about an item, the request is parsed to

determine attributes of the item such as functional attributes

as well as physical attributes…")-see [0007]; [108];

collecting one or more offered goods from one or more

sellers ("A search of a database is performed for selecting a

plurality of products each having the attributes of the item.")-

see [0008] and ("the present invention…comes up with the

products that match and the product with all the locations to

get the product from(multiple stores/sites, etc.)")-see [0009];

analyzing each of the offered goods to create additional

information from the good("A search of a database is performed

for selecting a plurality of products each having attributes of

the item... Information about the products is retrieved and

output.")[0007]; [108]; and

matching the request with at least one of the offered

goods by matching and comparing the additional information from

the request with the additional information from the at least

one good and the step of selecting the at least one offered good

as a best match ("A system, method and article of manufacture

are provided for matching products to a textual request.")-see

[0007] and ("A matching algorithm of the present invention

marries products together and provides products that have

attributes that are most similar to the description input by the

user.")-see [0009], see also FIG 12 and related text;

wherein the step of analyzing the request further

comprises the step of analyzing the request to create

annotations, and wherein the step of analyzing each of the one

or more offered goods further comprises the step of analyzing

each of the one or more offered goods to create annotations-see

"attributes" [0007-0009]; wherein each of the annotations

comprises model information-see "information about the products"

[0008];

Although Miller does disclose an item or consumer good, see

[0006], Miller does not specifically disclose information goods.

Goldberg however, teach a system and method for pricing and

selling digital goods [information goods]. -see cols. 3-4. It

would have been obvious to one having ordinary skill in the art

at the time the invention was made to modify Miller to include

digital goods as taught by Goldberg in order to provide the

consumer with a varied array of products to purchase.

Re claim 10: Miller disclose:

wherein each of the offered goods has

a price associated with the good and wherein the step of

matching further comprises dynamically determining prices of the

offered goods.-see [0218]. Although Miller does disclose an item or consumer good, see [0006], Miller does not specifically disclose information goods. Goldberg however, teach a system and method for pricing and selling digital goods. -see cols. 3-4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Miller to include digital goods as taught by Goldberg in order to provide the consumer with a varied array of products to purchase.

Re claim 15: Claim 15 has similar limitations found in claim 1 above, therefore are rejected by the same rationale.

Re claim 18: Miller disclose the trading mechanisms consisting of fixed-price and auction -see[0008], [215-219], Miller do not specifically disclose price discrimination, and subscription. Goldberg, however teaches price discrimination-see col. 12 lines 27-41. Official notice is taken that it is old and well known in the art of e-commerce that subscription is a method of selling information goods such as online subscriptions to Consumer Report magazine. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Miller to include various pricing techniques, and subscription pricing as was taught by Goldberg and is old and well known in the art in order to give the

sellers options in pricing goods that maximize the seller's

profit potential.

Re claim 19:   Miller do not disclose the step of

decomposing an offering of one of the offered information goods,

and wherein the step of matching further comprises the step of

comparing decompositions of the one offered information good

with the request and the additional information from the

request. Goldberg however, teaches ("the vendor could

capitalize on consumer price discrimination by offering a

modified form of the goods which would be less appealing to

consumers who place with utility value on the item, but which

would still be appealing to consumers who place a low utility

value on the item. For example, the vendor could create a

version of the goods that did not include some of the features

or functions valued by the high-end customers. The vendor could

then hold separate auctions for each class of goods, setting a

reserve price on the high-end version of the goods, the reserve

price being greater than the utility values exhibited by the

consumers of the low-end version. Thus, the use of a stable

auction mechanism enables the vendor to accurately observe

market distributions and to adapt in an optimal fashion.")-see

col. 12 lines 27-41. It would have been obvious to one having

ordinary skill in the art at the time the invention was made to modify Miller to include modifying products to create versions of the digital good that do not have all the components offered to high-end consumers as taught by Goldberg in order to attract consumers who would not want to pay the high price associated with the more expensive version of the good.

Re claims 20,21-22, 26, 30,31, 32: Further a system would have been necessary to perform the method of previously rejected claims 1, 4-5, 10, 14, 15, 19 respectively, and are therefore rejected using the same art and rationale.

Re claims 33, 34-35, 39, 43, 44, 45: Further an article of manufacture would have been necessary to perform the method of previously rejected claims 1, 4-5, 10, 14, 15, 19 respectively, and are therefore rejected using the same art and rationale.

3.   Claims 6-9, 11-13, 16-17, 23-25, 27-29, 36-38, 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Goldberg as applied to claims 1, 20, and 33 above, and further in view of Haddawy (Haddawy, Peter. *An Overview of Some Recent Developments in Bayesian Problem-Solving Techniques*. AI Magazine. La Canada: Summer 1999, Vol. 20, Iss. 2; pg. 11, 9 pgs.)

Re claims 6, 7: Miller and Goldberg do not specifically disclose wherein the step of analyzing the request further comprises the step of creating at least one inference from the request, and wherein the step of analyzing each of the one or more offered information goods further comprises the step of creating at least one inference from each the offered information goods; wherein each inference is created through deduction. Haddawy teaches ("The articles cover the topics of inference in Bayesian networks…Observations are continuously input into a Bayesian model and a probability distribution over user needs is inferred…The expectation-maximization algorithm iterates through two steps:…Any Bayesian network inference algorithm can be used…")-see p.1 par. 1- p. 6 par. 4.

It would have been obvious to one having ordinary skill in the
art at the time the invention was made to modify Miller and
Goldberg to include analyzing data using the inference
techniques taught by Haddawy in order to facilitate the
analysis of data to provide the user with an appropriate
course of action that will maximize utility.

Re claims 8,9: Miller and Goldberg do not disclose wherein
the step of analyzing the request further comprises the step
of accessing at least one request knowledge model, and wherein
the step of analyzing each of the offered information goods
further comprises the step of accessing at least one offered
knowledge model. Haddawy teaches knowledge based model
construction using Bayesian networks-see pp. 1-5. It would
have been obvious to one having ordinary skill in the art at
the time the invention was made to modify Miller and Goldberg
to include using a knowledge based model such as Bayesian
networks as taught by Haddawy in order to facilitate the
analysis of data to provide the user with an appropriate
course of action that will maximize utility.

Re claim 11, 13: Although Miller do disclose dynamically
determining prices in [218], Miller and Goldberg do not
specifically disclose creating an influence diagram comprising

node and arc, each arc connecting one node with another node;

and dynamically determining prices comprises the step of

maximizing utility. Haddawy however, teaches ("Influence

diagrams (Howard and Matheson 1984) are a generalization of

Bayesian networks for analyzing courses of action. In addition

to chance nodes, they contain decision and value nodes…")-see p.

2 para, 3 and ("The optimal act is the one that maximizes

expected utility…")-see p. 1 para. 3. It would have been

obvious to one having ordinary skill in the art at the time the

invention was made to modify Miller and Goldberg to include

using an influence diagram to analyze a course of action as

taught by Haddawy in order to maximize expected profits for the

seller and maximize utility for the buyer and seller.

Re claim 12: Although Miller and Goldberg disclose the

step of dynamically determining prices, Miller and Goldberg, do

not specifically disclose the step of updating expectations and

probabilities through Bayesian updating selecting from a group

consisting of linear Bayes updating and updating with decisions.

Haddawy however, teaches ("Influence diagrams (Howard and

Matheson 1984) are a generalization of Bayesian networks for

analyzing courses of action. In addition to chance nodes, they

contain decision and value nodes. They share all the benefits of

Bayesian networks."). It would have been obvious to one having

ordinary skill in the art at the time the invention was made to

modify Miller and Goldberg to include using Bayesian networks

for analyzing courses of action and determining probability of

random variables as taught by Haddawy in order to maximize

expected profits for the seller and maximize utility for the

buyer. .

Re claim 16: Miller and Goldberg disclose the steps of

analyzing the request and the step of analyzing each of the

offered information goods in claims 4 and 5 above, and matching

comprises comparing the request, annotations and offered

information goods and annotations –see Miller [0007-0009] :

Haddawy further discloses using inference in Bayesian

networks to determine an optimal act that maximizes expected

utility. Haddawy teaches inference techniques to analyze data

in order to aid in decision making-see pp. 1-6. It would be

obvious to use the inference techniques in Bayesian networks to

infer a user's goals and needs as taught by Haddawy in order to

maximize profit for seller and to minimize cost for the buyer.

It would have been obvious to one having ordinary skill at the

time the invention was made to include inference techniques to

analyze data as taught by Haddawy in order to maximize utility

for both the buyer and seller.

Re claim 17 has similar limitations found in claim 7 above,

therefore is rejected by the same rationale.

Re claim 23-25, 27-29: Further a system would have been

necessary to perform the method of previously rejected claims 6-

8, 11-13 and are therefore rejected using the same art and

rationale.

Re claim 36-38, 40-42: Further an article of manufacture

would have been necessary to perform the method of previously

rejected claims 6-8, 11-13 and are therefore rejected using the

same art and rationale.

Response to Arguments

4.   Applicant's arguments filed 5/18/2007 have been fully

considered but they are not persuasive.

In response to the argument that the specification teaches

that a request can comprise information that is not in a textual

format, please refer to the 112 first paragraph above.

Furthermore, the specification does not provide the information

necessary for the Examiner to gain an understanding of a request

being "non-textual." Furthermore, the there is no mention in

the specification of the term "non-textual request."

Miller teaches ("A system and method and article of

manufacture are provided for matching products to a textual

request.)-see para 0007. Miller teaches that the bar code

scanner is one embodiment used in facilitating a non-textual

request. Other means include scanners, or devises hand-held or

desktop computers. Ultimately any form of the request will be

transmitted and stored on a computer system using signals [non-

textual]- see pars. 0042-0047.

Conclusion

5. **THIS ACTION IS MADE FINAL**. Applicant is reminded of the

extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action

is set to expire THREE MONTHS from the mailing date of this

action. In the event a first reply is filed within TWO MONTHS

of the mailing date of this final action and the advisory action

is not mailed until after the end of the THREE-MONTH shortened

statutory period, then the shortened statutory period will

expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated

from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than

SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier

communications from the examiner should be directed to Elda

Milef whose telephone number is (571)272-8124. The examiner can

normally be reached on Monday -Thursday 8:30 am to 4:30pm.

If attempts to reach the examiner by telephone are

unsuccessful, the examiner's supervisor, Kambiz Abdi can be

reached on (571)272-6702. The fax phone number for the

organization where this application or proceeding is assigned is

571-273-8300.

KAMBIZ ABDI
SUPERVISORY PATENT EXAMINER

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Elda Milef
Examiner
Art Unit 3692

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KAMBIZ ABDI
SUPERVISORY PATENT EXAMINER